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SHAPIRO  
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& GARIN LLP**  
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**JUL 24 2013**

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July 22, 2013

**BY CERTIFIED MAIL**

M. Jack Sanders, President and Chief Executive Officer  
Sonoco Products Company  
36 Spring Lane  
Farmington, CT 06032

Certified mail # 7011 1150 0000 0300 3653

Plant Manager  
Sonoco Products Company  
200 South Water Street  
Holyoke, MA 01040-5979

Certified mail # 7011 1150 0000 0300 3646

Re: 60-Day Notice of Violations and Intent to File Suit Regarding Noncompliance  
with Federal Clean Water Act's Industrial Stormwater Discharge Requirements:  
200 South Water Street, Holyoke MA

Dear Sirs:

This office represents Clean Water Action, a national non-profit citizens' organization working for prevention of pollution in the nation's waters, protection of natural resources, creation of environmentally-safe jobs and businesses, and empowerment of people to make democracy work. Clean Water Action has over one million members nationally, more than 50,000 of whom reside in Massachusetts.

We write to give notice that Clean Water Action intends to file a civil action in the United States District Court for the District of Massachusetts under section 505 of the Federal Clean Water Act (the "Act") against Sonoco Products Company ("Sonoco"). The subject of the action will be Sonoco's unlawful discharge of stormwater from its paper facility at 200 Water

Street, Holyoke, MA (the "Facility"). Stormwater runoff from the Facility is discharged to the Connecticut River.

## **BACKGROUND**

Activities that take place at industrial facilities, such as material handling and storage, are often exposed to the weather. As runoff from rain or snowmelt comes into contact with these materials, it picks up pollutants and transports them to nearby rivers, lakes, or coastal waters and tributaries thereto, including but not limited to storm sewer systems, wetlands, and other surface waters. Stormwater pollution is a significant source of water quality problems for the nation's waters.

Materials and products are stored outside at the Facility and come into contact with precipitation. As a result, stormwater discharged from the Facility is likely to contain, among other things, elevated levels of total suspended solids (TSS) and biochemical oxygen demand (BOD5). The Connecticut River is impaired for aquatic life due to, among other things, excessive levels of TSS. Oils, greases and other pollutants are also likely present in stormwater from the Facility due to equipment/vehicle maintenance, repair, and storage.

Clean Water Action will ask the Court to ensure Sonoco's future compliance with the Act, assess civil penalties in an appropriate amount,<sup>1</sup> award plaintiff its litigation costs, including attorney and expert fees, and award any other relief the Court deems appropriate. Clean Water Action's complaint will be filed a minimum of 60 days after the postmark date of this letter. This is a formal 60-day notice of intent to sue that is being served pursuant to 40 C.F.R., Part 135.

This notice is being provided by:

Cindy Luppi, New England Regional Co-Director  
Clean Water Action  
262 Washington Street, Suite 301  
Boston, MA 02108  
(617) 338-8131  
(617) 335-6449 (fax)

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<sup>1</sup> The Act authorizes the Court to assess a penalty of up to \$32,500 a day for each violation up to or including January 12, 2009, *see* 33 U.S.C. § 1319(d), 69 Fed. Reg. 7121 (Feb. 13, 2004), and \$37,500 per day of violation for violations after that date. *See* 73 Fed. Reg. 75340 (Dec. 11, 2008).

Counsel for Clean Water Action in this case is:

Nora J. Chorover

Stern, Shapiro, Weissberg & Garin, LLP

90 Canal Street, Suite 500

Boston, MA 02114

(617) 742-5800

(617) 742-5858 (fax)

## **VIOLATIONS**

### **A. THE REQUIREMENTS OF THE ACT**

#### **1. Pollutant Discharges without a Permit are Illegal**

The Clean Water Act makes the discharge of pollution into waters of the United States unlawful unless the discharge is in compliance with certain statutory requirements, including the requirement that the discharge be permitted by the federal Environmental Protection Agency ("EPA") under the National Discharge Elimination System ("NPDES").

#### **2. Paper Products Manufacturing Facilities Must Comply with the EPA's General Industrial Stormwater Permit**

In order to minimize polluted stormwater discharges from certain categories of industrial facilities, the EPA has issued a general industrial stormwater permit ("Stormwater Permit").<sup>2</sup> Paper products manufacturing facilities are subject to the requirements of this Stormwater Permit.<sup>3</sup> Paper products manufacturing facilities which carry on other types of activities also subject to the requirements of the Stormwater Permit must also comply with any sector-specific requirements for such co-located industrial activity.<sup>4</sup>

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<sup>2</sup> The Stormwater Permit was first issued in 1995 and was reissued in 2000 and 2008. The 2008 Permit does not include significant changes to relevant provisions. See 60 Fed. Reg. 50804 (Sept. 29, 1995); 65 Fed. Reg. 64746 (Oct. 30, 2000); 73 Fed. Reg. 56572 (Sept. 29, 2008).

<sup>3</sup> Stormwater Permit, Appendix D, pg. D-2.

<sup>4</sup> Stormwater Permit, pg. 50.

3. Scrap and Waste Recycling Facilities Must Develop and Implement a Stormwater Pollution Prevention Plan ("SWPPP")

An owner or operator (hereafter referred to as "operator") of a facility subject to the requirements of the Stormwater Permit must prepare a SWPPP before being authorized to discharge under the Stormwater Permit. The SWPPP must be "prepared in accordance with good engineering practices"<sup>5</sup> and, among other things,

- identify potential sources of pollution at the facility;<sup>6</sup>
- describe and ensure implementation of control measures that are technologically available and economically practicable and achievable in light of best industry practice;<sup>7</sup> and
- set forth specific procedures to assure compliance with effluent limitations and monitoring/inspection requirements of the Stormwater Permit.<sup>8</sup>

4. Paper Products Manufacturing Facilities Must Submit to EPA a Notice of Intent to be Covered by the General Industrial Stormwater Permit By EPA's Established Deadlines

After completing and implementing its SWPPP,<sup>9</sup> paper products manufacturing facilities must submit to EPA a Notice of Intent to be covered by the Stormwater Permit. EPA's NOI filing deadline for the 2008 permit was January 5, 2009.<sup>10</sup>

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<sup>5</sup> Stormwater Permit, pg. 12 (referring to "control measures").

<sup>6</sup> Stormwater Permit, pgs. 27-28.

<sup>7</sup> Stormwater Permit, pgs. 12, 28-29.

<sup>8</sup> Stormwater Permit, pgs. 29-30.

<sup>9</sup> Stormwater Permit, pg. 25 ("You must prepare a SWPPP for your facility before submitting your Notice of Intent (NOI) for permit coverage.").

<sup>10</sup> Stormwater Permit, pg. 9 (unpermitted discharges from the facility will continue to be "unauthorized" unless allowed under the Stormwater Permit). See also 40 C.F.R. §122.28(b)(2)(i) ("A discharger ... who fails to submit a notice of intent in accordance with the terms of the permit is not authorized to discharge ....").

5. Paper Products Manufacturing Facilities Must Comply with the Terms of the General Industrial Stormwater Permit

The Stormwater Permit requires paper and allied products manufacturing facilities to, among other things:

- a. ensure that stormwater discharges meet applicable water quality standards;<sup>11</sup>
- b. reduce and/or eliminate pollutants to the extent achievable using control measures (including best management practices) that are technologically available and economically practicable and achievable in light of best industry practice;<sup>12</sup>
- c. monitor stormwater discharges for pollutants for which the receiving water is “impaired” and for which a standard analytical method exists;<sup>13</sup>
- d. conduct routine facility inspections, quarterly visual assessments, and annual comprehensive site inspections;<sup>14</sup> and
- e. submit annual reports to EPA that include, among other things, the findings from the annual comprehensive site inspection.<sup>15</sup>

B. SONOCO’S VIOLATIONS AND DATES OF VIOLATIONS

Clean Water Action’s complaint will address the following violations that occurred since January 5, 2009.

1. Discharges of Stormwater from the Facility without a NPDES permit – Exhibit A

Sonoco’s violations of the Act’s prohibition against unpermitted discharges occurred and are continuing to occur at the Facility each time rain, snow melt or another factor results in industrial stormwater discharges from the Facility to waters of the United States. The days since January 5, 2009 on which rain, snow melt or other factors caused stormwater to be discharged

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<sup>11</sup> Stormwater Permit, pg. 16 (“Your discharge must be controlled as necessary to meet applicable water quality standards.”).

<sup>12</sup> Stormwater Permit, pg. 12.

<sup>13</sup> Stormwater Permit, pg. 39.

<sup>14</sup> Stormwater Permit, pgs. 20-25.

<sup>15</sup> Stormwater permit, pg. 41.

from the Facility to waters of the United States are listed on Exhibit A hereto. Clean Water Action's complaint will also address any non-permitted stormwater discharge violations that occurred or occur between the last date listed on Exhibit A, and the date on which the complaint is filed.

2. Violations That Have Occurred on Each Day Since January 5, 2009<sup>16</sup>

The following violations of the Act have occurred and are continuing to occur at the Facility on each day since January 5, 2009.

- a. Failure to prepare and implement a Stormwater Pollution Prevention Plan that
  - i. identifies potential pollutant sources in accordance with section 5.1.3 of the Stormwater Permit;
  - ii. describes and ensures implementation of control measures as required by section 2.0 of the Stormwater Permit; and
  - iii. sets forth procedures to assure compliance with effluent limits and monitoring/inspection requirements of the Stormwater Permit.
- b. Failure to submit a Notice of Intent to be Covered by the Stormwater Permit.
- c. Failure to ensure that stormwater discharges from the Facility will not cause or have the reasonable potential to cause or contribute to a violation of water quality standards.
- d. Failure to reduce and/or eliminate pollutants at the Facility to the extent achievable using control measures (including best management practices) that are technologically available and economically practicable and achievable in light of best industry practice.

3. Inspection, Monitoring and Reporting Violations - Exhibit B

Sonoco's ongoing Inspection and Reporting violations are set forth on Exhibit B, and include the following:

- a. Failure to conduct annual comprehensive site inspections;
- b. Failure to submit annual reports to EPA; and

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<sup>16</sup> Clean Water Action believes that the violations set forth in Sections B.2 and B.3 have occurred on each day of the last five years, and not just on rain days. However, to the extent it is determined that rain days are relevant in determining the dates of violations, such rain dates through July 7, 2013 are set forth on Exhibit A hereto. The complaint, when filed, will set forth additional rain dates since July 7, 2013.

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- c. Failure to perform impairment pollutant monitoring and reporting of stormwater discharges. The Connecticut River is impaired for aquatic life due to escherichia coli, total suspended solids and PCB in fish tissue. Sonoco should have conducted annual monitoring of these parameters for the first year of the new permit term and should have reported the results of this monitoring to EPA.

To the extent that Sonoco is carrying out any other industrial activity at the Facility which is also subject to the requirements of Stormwater Permit, then Sonoco's failure to comply with the permit requirements for such co-located activities is also a violation of the Clean Water Act.

### **CONCLUSION**

Clean Water Action believes this Notice of Violations and Intent to File Suit sufficiently states the basis for a civil action. During the 60-day notice period, we would be willing to discuss effective remedies for the violations noted in this letter that may avoid the necessity of litigation. If you wish to pursue such discussions, please have your attorney contact us within the next 20 days so that negotiations may be completed before the end of the 60-day notice period. We do not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,

A handwritten signature in black ink, appearing to read "Nora J. Chorover", is written over the typed name.

Nora J. Chorover

Attorney for

CLEAN WATER ACTION

Sonoco Products Co.

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cc: (by certified mail)

Curt Spalding, Regional Administrator  
EPA New England, Region 1,  
5 Post Office Square, Ste. 100  
Boston, MA 02109  
Certified Mail # 7011 1150 0000 0300 3639

Gina McCarthy, Administrator  
US EPA Headquarters  
Ariel Rios Building  
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Washington, DC 20460  
Certified Mail # 7011 1150 0000 0300 3622

Eric Holder, Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001  
Certified Mail # 7011 1150 0000 0300 3608

Kenneth L. Kimmell, Commissioner  
Massachusetts Department of Environmental Protection  
One Winter Street  
Boston, MA 02108  
Certified Mail # 7011 1150 0000 0300 3615

Corporation Service Company  
Registered Agent for  
Sonoco Products Company  
155 Federal Street, Suite 700  
Boston, MA 02110  
Certified Mail # 7011 1150 0000 0300 3523



**EXHIBIT A**

DAYS BETWEEN  
JANUARY 5, 2009 AND JULY 7, 2013  
ON WHICH STORMWATER FROM FACILITY  
DISCHARGED TO WATERS OF THE UNITED STATES

January 2009:	7, 11, 18, 28, 29
February 2009:	12, 18, 19, 22, 27
March 2009:	2, 9, 11, 26, 29
April 2009:	1, 3, 6, 10, 11, 20, 21, 22
May 2009:	5, 6, 7, 9, 14, 16, 17, 27, 29
June 2009:	9, 10, 11, 12, 13, 14, 15, 18, 19, 20, 21, 24, 27, 30
July 2009:	2, 7, 11, 16, 17, 18, 21, 22, 23, 24, 25, 26, 29, 30, 31
August 2009:	1, 13, 21, 22, 23, 24, 28, 29, 30
September 2009:	11, 27, 28, 29
October 2009:	3, 7, 9, 10, 13, 18, 23, 24, 28, 31
November 2009:	5, 6, 14, 20, 23, 27
December 2009:	2, 3, 5, 9, 13, 26, 27
January 2010:	17, 18, 19, 25
February 2010:	23, 24, 25, 26
March 2010:	13, 14, 15, 22, 23, 26, 28, 29, 30, 31
April 2010:	9, 16, 26
May 2010:	8, 12, 14, 18, 26, 29
June 2010:	1, 2, 4, 5, 6, 9, 10, 12, 24
July 2010:	10, 11, 23, 24, 29
August 2010:	5, 9, 10, 15, 16, 22
September 2010:	14, 17, 28, 30
October 2010:	1, 2, 6, 7, 15, 16, 27, 28
November 2010:	5, 8, 17, 26
December 2010:	2, 13, 14, 27
January 2011:	12, 13, 18, 19, 21, 27
February 2011:	2, 3, 6, 8, 21, 25, 26, 27
March 2011:	1, 7, 11, 12, 17, 22
April 2011:	1, 5, 6, 13, 14, 17, 20, 24, 29
May 2011:	5, 8, 16, 17, 18, 19, 24
June 2011:	2, 10, 11, 12, 14, 15, 16, 18, 23, 24, 26, 29
July 2011:	4, 8, 9, 26, 27
August 2011:	7, 10, 15, 16, 22, 25, 26, 28, 29
September 2011:	6, 7, 8, 16, 21, 22, 23, 24, 29, 30
October 2011:	1, 2, 4, 5, 13, 14, 15, 20, 27, 28, 30
November 2011:	11, 17, 23, 30
December 2011:	7, 8, 22, 23, 28
January 2012:	1, 2, 12, 13, 19, 20, 23, 24, 27, 28

February 2012:	17, 25
March 2012:	1, 3, 13
April 2012:	2, 22, 23
May 2012:	2, 3, 9, 10, 15, 16, 30
June 2012:	2, 3, 4, 5, 13, 14, 24, 26
July 2012:	4, 24, 28
August 2012:	5, 10, 15, 16, 18, 28
September 2012:	4, 5, 8, 18, 22, 28
October 2012:	2, 4, 10, 14, 15, 19, 29, 30
November 2012:	13
December 2012:	8, 9, 10, 17, 18, 20, 21, 27
January 2013:	11, 16, 28, 29, 31
February 2013:	8, 9, 11, 19, 27
March 2013:	12, 18, 19, 31
April 2013:	10, 11, 12, 19, 20
May 2013:	8, 11, 19, 22, 23, 24, 25, 29
June 2013:	2, 3, 6, 7, 8, 10, 11, 13, 14, 17, 18, 25, 27, 28
July 2013:	1

**EXHIBIT B**  
**SONOCO PRODUCTS COMPANY – MONITORING, INSPECTION AND REPORTING VIOLATIONS**

<b>Type of Violation</b>	<b>Parameters</b>	<b>Beginning Date of Violation</b>	<b>Earliest End Date of Violation</b>
Failure to Monitor Impairment Pollutants	TSS, E Coli, PCBs	June 30, 2010	The present
Failure to Report Impairment Pollutants	TSS, E Coli, PCBs	July 31, 2010	The present
Failure to Conduct and Document Required Inspections		September 29, 2009	The present
Failure to Submit Annual Report		November 13, 2009	The present
Failure to Conduct and Document Required Inspections		September 29, 2010	The present
Failure to Submit Annual Report		November 13, 2010	The present
Failure to Conduct and Document Required Inspections		September 29, 2011	The present
Failure to Submit Annual Report		November 13, 2011	The present
Failure to Conduct and Document Required Inspections		September 29, 2012	The present
Failure to Submit Annual Report		November 13, 2012	The present